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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/073,261	02/13/2002	John Richard Clarke	1509-275	6801
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LOWE HAUPTMAN GILMAN & BERNER, LLP Suite 310 1700 Diagonal Road Alexandria, VA 22314			EXAMINER POWERS, WILLIAM S	
			ART UNIT 2134	PAPER NUMBER

DATE MAILED: 04/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/073,261

Applicant(s)

CLARKE, JOHN RICHARD

Examiner

William S. Powers

Art Unit

2134

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 January 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 12-21, 23, 24 and 26-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 12-21, 23, 24 and 26-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date: _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date: _____  | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Amendment***

In light of Applicant's amendments, all previous objections to the drawings are withdrawn.

In light of Applicant's amendments, all previous objections to the specification are withdrawn.

The objection to claim 25 is considered remedied by the cancellation of claim 25.

In light of Applicant's amendments, the 35 USC 112, first paragraph rejections of claims 16 and 26 are withdrawn.

In light of Applicant's amendments, the 35 USC 112, second paragraph rejections of claims 9, 11, 16 and 26 are withdrawn.

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claim 29 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

As to claim 29, the specification is not clear on what constitutes a signature of the control logic, how the signature is applied, how many signatures does the control logic have and what the signature is checked against. Is the signature a serial number, a hash or digest of the control logic or is it a certified signature from a trusted third party?

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 27, 28 and 29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

As to claims 27 and 28, the specification is not clear on how the time stamp is applied to the control logic. Is it appended to it or is a copy of the time stamped control logic saved for future reference? The purpose of time stamping the controller logic is not explicitly set out. What sort of correspondence is there between the time stamp of the controller logic and the time stamp of the data? Is there a certain threshold that exists between the two to allow them to be linked? For purposes of examination, the Examiner

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assumes that there is a record of the controller logic used in the time stamping of a document that can be reviewed in the event the timestamp of the document is called into question.

As to claim 29, it is not clear in the claim language or the specification what constitutes “a signature of the controller logic” and how it is checked. For purposes of examination, the Examiner assumes that there is a record of the controller logic used in the time stamping of a document that can be reviewed in the event the timestamp of the document is called into question.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000.

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Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

6. Claims 1-6, 8, 9, 12-21, 23, 24 and 26 are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent No. 6,188,766 to Kocher.

As to claim 1, Kocher teaches:

- a. A trusted clock (column 5, line 51-column 6, line 3).
- b. A memory (column 6, lines 13-25).
- c. A time-stamper (column 6, lines 4-12).
- d. An interface (modem) (column 5, lines 39-40).
- e. A controller (column 5, line 51-column 6, line 3).
- f. A digital signer (column 6, lines 4-12).
- g. The controller is configured to cause data, that has been received from an outside of said device via said interface, to be time-stamped by said time-stamper, with a time obtained from said trusted clock, and digitally signed with a digital signature by said digital signer and the controller is further configured to store the time-stamped and digitally signed data to said memory, without transmitting said time-stamped data back to the outside of said device (column 7, line 47-column 8, line 65).

As to claim 2, Kocher teaches said memory comprises at least a disc (column 6, lines 13-25).

As to claim 3, Kocher teaches said memory is a long term storage medium (column 6, lines 13-25).

As to claim 4, Kocher teaches said memory is removable storage medium (R.A.I.D. hard disk system) (column 6, lines 13-25).

As to claim 5, Kocher teaches the use of a hard disk sub-system (column 6, lines 4-25).

As to claim 6, Kocher teaches said trusted clock is provided by a replaceable card pluggable into said device (column 7, lines 59-64).

As to claims 8 and 16, Kocher teaches said controller logic being protected by a trusted mechanism to prevent unauthorized alteration of said controller logic (tamper resistant housing as a security precaution for the apparatus) (column 13, lines 40-45).

As to claim 9, Kocher teaches:

- a. Identify whether the data received via said interface has a flag indicative as a command to time-stamp the flagged data (column 5, lines 39-50).

- b. Identify whether command language used to control operation of said device has a marker indicative as a command to time-stamp selected data (column 5, lines 39-50).
- c. Check whether the time-stamper is set to a time-stamp mode to time-stamp received data, or not (column 5, lines 39-50).

As to claim 12, Kocher teaches said memory is a long term memory (column 6, lines 13-25).

As to claim 13, Kocher teaches:

- a. Trusted clock means for non-repudiably measuring time (column 5, line 51-column 6, line 3).
- b. Time-stamping means for stamping data with a non-repudiable time supplied by said trusted clock means (column 6, lines 4-12).
- c. Digital signing means for signing data digitally (column 6, lines 4-12).
- d. Data storage means for locally storing data that has been time-stamped by said time-stamping means and signed with a digital signature by said digital signing means (column 6, lines 13-25).
- e. Controlling means for prohibiting transmission of said time-stamped data to components other than said digital signing means and said data storage means (column 7, line 47-column 8, line 65).



As to claims 14 and 24, Kocher teaches:

- a. Time stamping data by using the trusted clock at said data storage device (column 5, line 51-column 6, line 3).
- b. Creating a digital signature dependent upon content of said data and time-stamp (column 7, lines 47-64).
- c. Storing said data and the signature associated with said data in said data storage device on a recording medium of said data storage device (column 7, line 47-column 8, line 65).

As to claim 15, Kocher teaches said recording medium comprises a long-term data storage medium, and wherein time-stamped, signed data are stored on said long-term data storage medium (column 6, lines 13-25).

As to claim 17, Kocher teaches checking data received by said data storage device for a flag indicative of instructions to time-stamp all of or a selected part of said data, and said data, or the part of said data, is time stamped accordingly (column 5, lines 39-50).

As to claim 18, Kocher teaches including checking a command language of a controller in said data storage device, said controller being used to control steps (i) to (iii), for instructions to time-stamp all, or a selected part, or parts, of said data (column 5, lines 39-50).

As to claim 19, Kocher teaches a controller which is used to control steps (i) to (iii) and which has a time-stamp setting and a non time-stamping setting and said method further comprises checking the setting of said controller prior to said operation (i) (column 5, lines 39-50).

As to claims 20 and 26, Kocher teaches:

- a. Transmitting data to said device over the Internet or other public network (column 5, lines 1-5).
- b. Time-stamping said data by using the trusted clock at said data storage device (column 5, line 51-column 6, line 3).
- c. Creating a digital signature dependent upon content of said data and time-stamp (column 7, lines 47-64).
- d. Storing said data and the signature associated with said data on a recording medium of said data storage device, without transmitting said signed time-stamped data back over the Internet or other public network (column 7, line 47-column 8, line 65).

As to claim 21, Kocher teaches said data that is time-stamped is a digest of a larger data record (column 7, line 47-column 8, line 10).

As to claim 23, Kocher teaches a data storage device adapted to time-stamp and store data that said data storage device receives from said network without transmitting time-stamped data across said network (column 7, line 47-column 8, line 65).

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,188,766 to Kocher, as applied to claim 1 above, in view of US Patent No. 5,001,752 to Fisher.

As to claim 7, Kocher teaches a trusted clock, but does not expressly mention that the clock is hardwired. However, in an analogous art, Fisher teaches said trusted clock is an encapsulated hardwired component (column 3, line 47-column 4, line 27).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the notarized time-stamping of electronic documents of Kocher with the embedded clock of Fisher in order to ensure the accuracy of the time-stamp as suggested by Fisher (column 4, lines 10-17).

As to claim 10, Kocher as modified teaches a clock-correcting input adapted to input a trusted correction signal to said trusted clock to correct said clock (Fisher, column 3, line 47-column 4, line 34).

10. Claims 27, 28 and 29 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent No. 6,188,766 to Kocher as applied to claims 1 and 8, claim 14 and claim 14, respectively above, and further in view of US Patent No. 6,230,199 to Revashetti et al. (hereinafter Revashetti).

As to claim 27, Kocher does not expressly mention the time stamping of the controller logic. However, in an analogous art, Revashetti teaches said controller logic (device driver) is time-stamped (column 12, lines 17-32).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to implement the notarized time-stamping of electronic

documents of Kocher with the time stamping of the device drivers of Revashetti in order to better serve the user in the updating of device drivers as suggested by Revashetti (column 2, lines 1-5).

As to claim 28, Kocher as modified teaches said method further comprises time-stamping the controller logic prior to passing data through to the trusted clock (Revashetti, column 12, lines 17-32).

As to claim 29, Kocher as modified teaches checking a signature of the controller logic (Revashetti, column 12, lines 17-32).

### ***Response to Arguments***

11. Applicant's arguments filed 1/31/2006 have been fully considered but they are not persuasive.

As to Applicant's argument that "the digital signature be created based on both the data and the time-stamp" (Remarks, page 12, lines 3-4), Applicant is directed to column 10, lines 38-46 of the Kocher patent. It clearly states that the time stamp is constructed using an RSA algorithm.

As to Applicant's argument that "storing said data and the signature associated with said data on a recording medium of said data storage device, without transmitting

said time-stamped data back over the Internet of other public network" (Remarks, page 12, lines 22-24), Applicant is directed to column 11, line 63-column 12, line 6, which is an alternative embodiment to the invention wherein the documents that are time-stamped are not transmitted back to the party that requested the time-stamp.

Verification is sent when the requester or an interested third party transmits a document to the Trusted Time-stamp Service and it is determined that the document in question has been time-stamped.

### ***Conclusion***

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

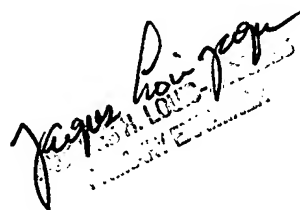
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to William S. Powers whose telephone number is 751 272 8573. The examiner can normally be reached on m-f 7:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jacques Louis-Jacques can be reached on 571 272 6962. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
William S. Powers  
Examiner  
Art Unit 2134

  
Jacques Louis-Jacques  
Supervisor  
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